

NORTH CAROLINA STATE ETHICS COMMISSION

Robert L. Farmer, Chair

Perry Newson, Executive Director

LEGISLATIVE OVERVIEW

for

JOINT APPROPRIATIONS SUBCOMMITTEE ON

GENERAL GOVERNMENT

March 2, 2011

4:00 p.m.

NORTH CAROLINA STATE ETHICS COMMISSION

LEGISLATIVE OVERVIEW

March 2, 2011

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STATUTORY AUTHORITY.

- **Chapter 138A of the NC General Statutes – The State Government Ethics Act.**
- **Chapter 120C of the NC General Statutes – The Lobbying Law.¹**

MISSION STATEMENT. The Commission's primary mission is to ensure that public officials covered by the State Government Ethics Act "exercise their authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence." The Commission is also charged with ensuring that standards of ethical conduct and standards regarding conflicts of interest are adhered to by public officials. The Commission accomplishes this mission through evaluating financial disclosure forms (SEIs) of public servants, providing ongoing education and advice to public servants, legislators, legislative employees, and judicial officers² and by investigating complaints alleging unethical conduct by those individuals. The Commission also ensures that lobbyists and lobbyist principals understand their duties and responsibilities under the Lobbying Law by providing education and advice. The Commission also has the responsibility of investigating complaints alleging violations of portions of the State's Lobbying Law.

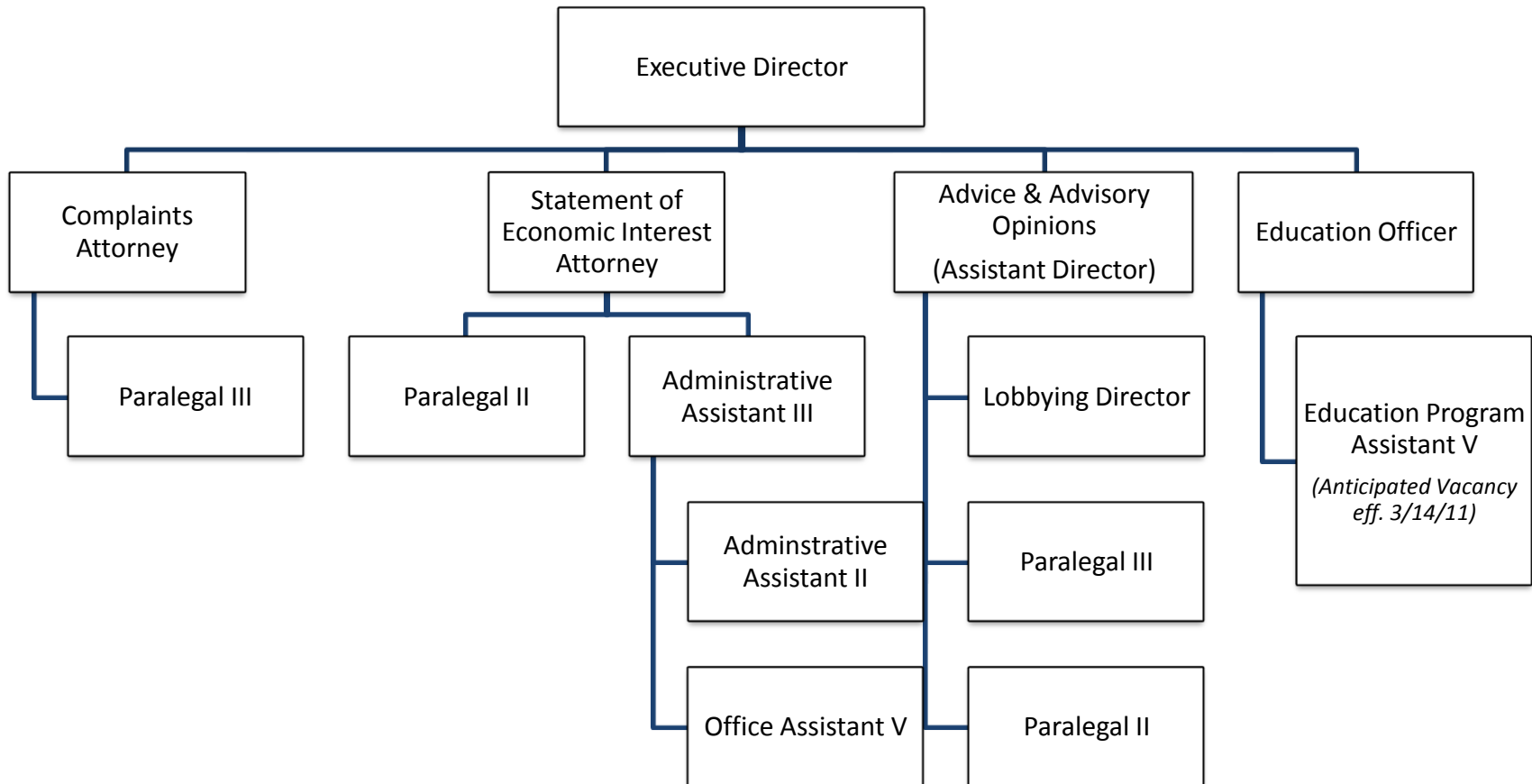
GOALS & OBJECTIVES.

- Administer the financial disclosure (Statement of Economic Interest) requirements.
- Educate individuals covered by the State Government Ethics Act and Lobbying Law about their duties and responsibilities under those laws.
- Advise public servants, legislators, legislative employees, judicial officers, and individuals subject to the lobbying laws, including lobbyists and lobbyist principals, concerning compliance with the ethics and lobbying laws.
- Investigate complaints alleging unethical conduct by public servants, legislators and legislative employees.
- Investigate complaints alleging violations of certain sections of the lobbying law, including the gift ban, by lobbyists and lobbyist principals.

¹ The Lobbying Law grants specific authority to administer parts of the Lobbying Law to both the State Ethics Commission and the Secretary of State. The Commission has the sole authority for interpreting the meaning and application of the Lobbying Law, including issuing advice and advisory opinions to persons affected by the Lobbying Law, and adopting rules interpreting the law. The Commission also has sole authority over Article 3 (Prohibitions and Restrictions), Article 5 (Liaison Personnel), and Article 7 (Persons Exempted). The Secretary of State has the sole authority to adopt rules, orders, and forms necessary to administer the provisions of Article 2 (Registration), Article 4 (Reporting), and Article 8 (Miscellaneous Reporting).

² Justices, Judges, District Attorneys, and Clerks of Court.

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CONTINUATION BUDGET³

Fiscal Data

General Fund Budget Code: 14100; Fund Code: 1810	<u>2009-2010 Actual</u>	<u>2010-2011 Certified</u>	<u>2010-2011 Authorized</u>	<u>2011-2012 Recommended</u>	<u>2012-2013 Recommended</u>
Total Requirements	\$931,831	\$1,429,193	\$1,429,193	\$1,369,117	\$1,369,117
Receipts	\$6,861	\$0	\$0	\$0	\$0
General Fund Appropriation	<u>\$924,970</u>	<u>\$1,429,193</u>	<u>\$1,429,193</u>	<u>\$1,429,193</u>	<u>\$1,429,193</u>
Less: Recommended Adjustments				(\$60,076)	(\$60,076)
Adjusted General Fund Appropriation				<u>\$1,369,117</u>	<u>\$1,369,117</u>

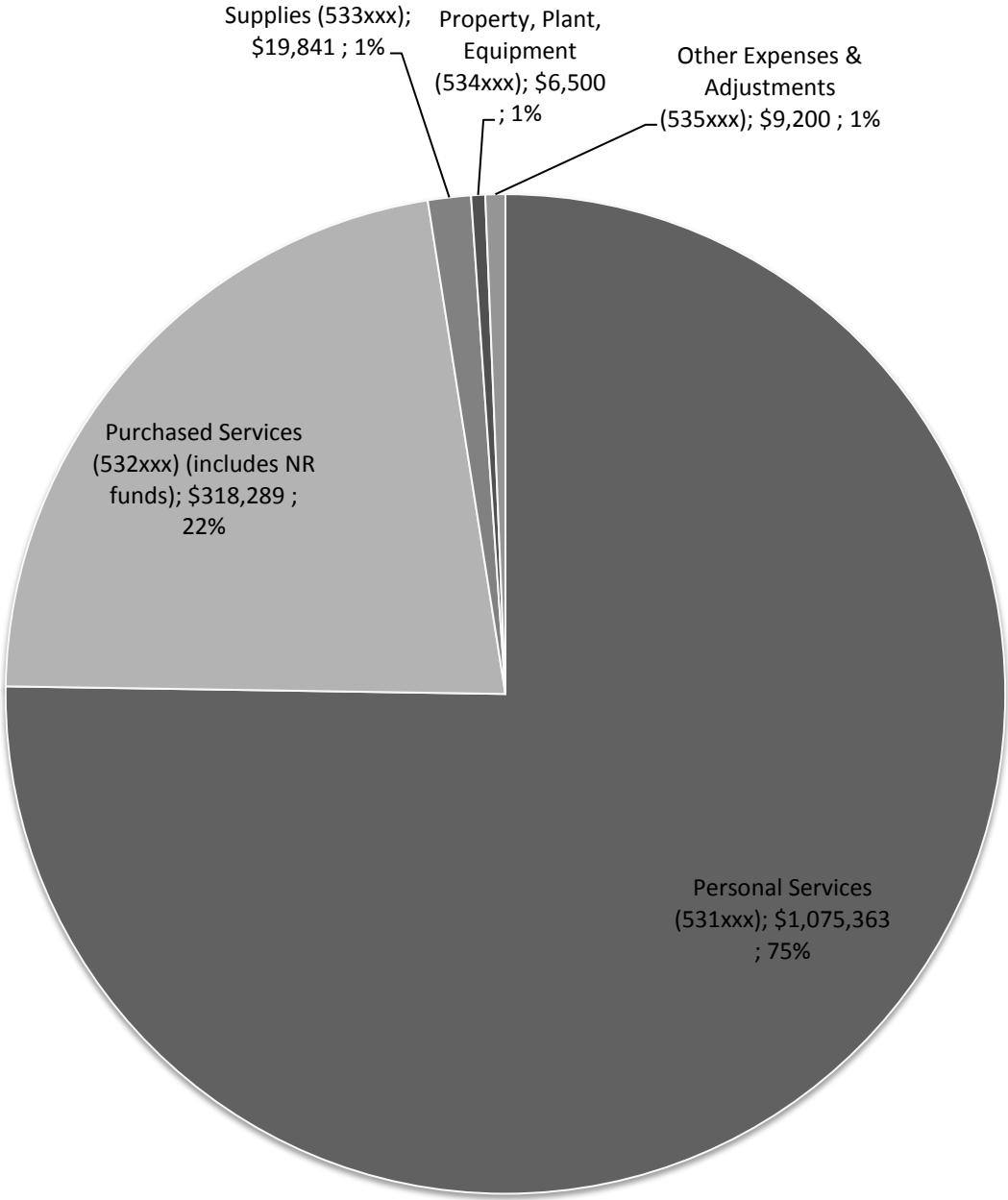
<u>Expenditures by Category</u>	<u>2010-2011 Authorized</u>	<u>2011-2012 Recommended</u>	<u>2012-2013 Recommended</u>
Personal Services (531xxx)	\$1,075,363 ⁴	\$1,137,387	\$1,137,387
Purchased Services (532xxx)	\$318,289	\$200,689	\$200,689
Supplies (533xxx)	\$19,841	\$19,841	\$19,841
Property, Plant, Equipment (534xxx)	\$6,500	\$2,000	\$2,000
Other Expenses & Adjustments (535xxx)	\$9,200	\$9,200	\$9,200

³ Source: OSBM Worksheet I, 02/09/11.

⁴ Salaries and benefits for additional positions authorized by the General Assembly in 2010 were budgeted for 10 months for SFY 2010-11 with a start date of September 1, 2010. Salaries and benefits for all positions for 12 months are \$1,137,387.

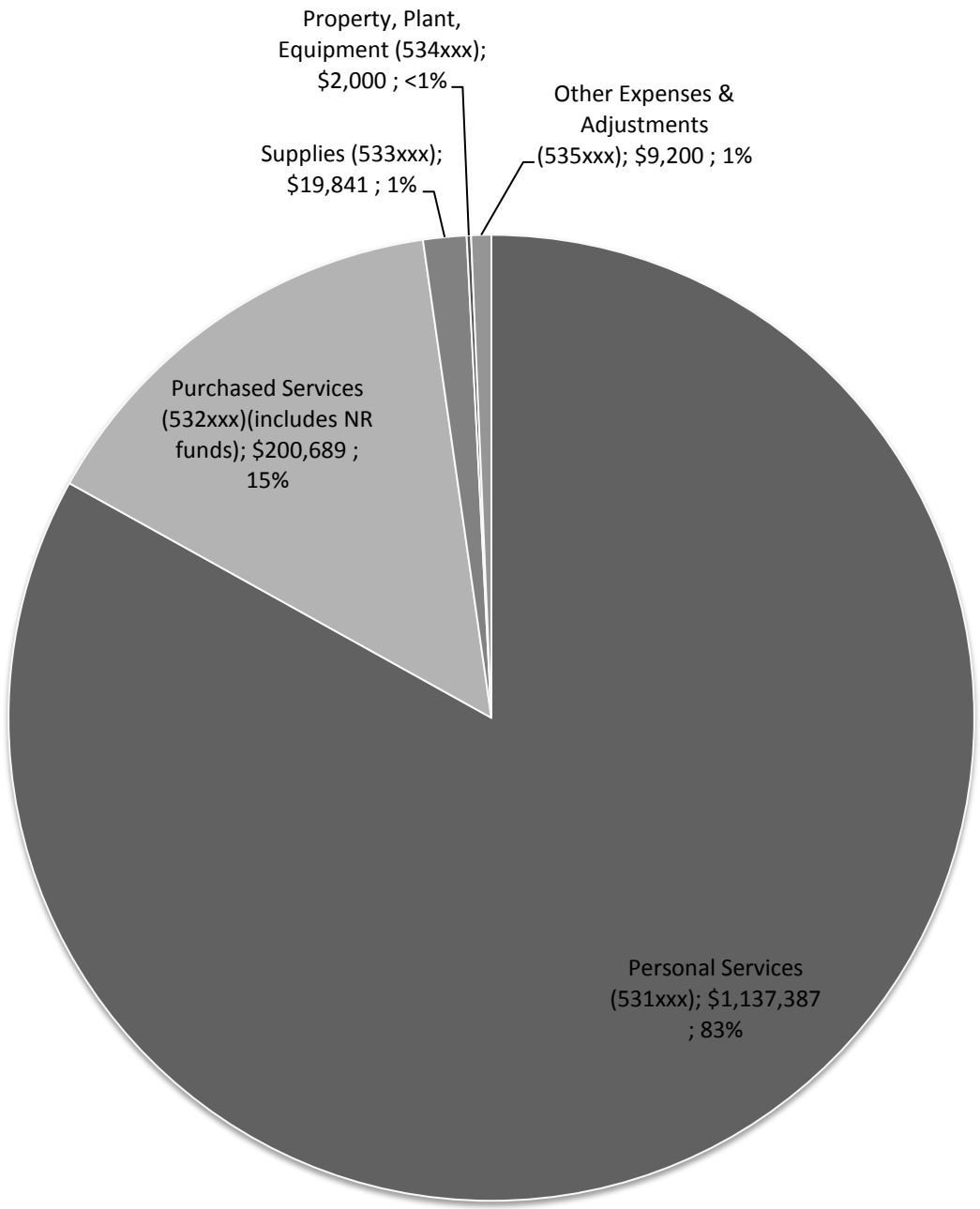
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2010-2011 Authorized Budget



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2011-2012 Recommended Budget



PRIMARY DUTIES & RESPONSIBILITIES

Note: *The State Ethics Commission does not have “divisions.” The following information is organized by the four (4) primary areas of responsibility.*

STATEMENTS OF ECONOMIC INTEREST (SEIs). Elected officials in all three branches of State government, along with certain employees and appointees to numerous boards and commissions, must annually file Statements of Economic Interest. The Commission is required to evaluate most of these statements for actual and potential conflicts of interest between the person’s private interests and public position. The Commission also makes SEIs and any evaluations available to the public.

Statutory Authority. G.S. 138A-10(a)(3) – (a)(4); 138A-11; 138A-21 through -27.

Major Responsibilities.

- Develop & distribute all SEI and related forms (including amendment & “short” forms).
- Respond to questions from filers concerning their SEI disclosures.
- Evaluate SEIs of all public servants (Executive branch officials and employees) for actual and potential conflicts of interest.
- Notify filers of SEI filing responsibilities.
- Administer the fine process for late or non-filing of SEIs.
- Review State boards and commissions to determine if those boards should be covered by the State Government Ethics Act.
- Maintain and publish a list of covered boards and covered persons.
- Respond to public records requests for Statements of Economic Interest.

EDUCATION. Most individuals covered by the ethics act are required by law to attend ethics education. The Commission and its staff provide both general and specific ethics and lobbying education programs to these individuals, both locally and statewide via the Information Highway. The Commission staff also provides agency-specific ethics education programs and designs and administers the Commission’s online ethics education program for public servants and assists with online education for legislative employees. The Commission is also required to offer ethics education to the immediate staff of certain individuals covered by the ethics law. Finally, the Commission is responsible for providing lobbying education for lobbyists and lobbyist principals.

Statutory Authority. G.S. 138A-10(a)(8); G.S. 138A-14; G.S. 120C-103.

Major Responsibilities.

- Develops and conducts statutorily mandated ethics and lobbying education for public servants, legislators, and legislative employees.

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- Offers ethics education to the immediate staff of individuals covered by the State Government Ethics Act.
- Develops and maintains online ethics education program for public servants.
- Assists legislative staff in developing and maintaining online ethics education program for legislative employees.
- Develops and conducts agency-specific ethics education presentations upon request.
- Develops lobbying law presentations for lobbyists and lobbyist principals.
- Drafts newsletters and maintains library of other ethics laws, rules and regulations.
- Represents the State Ethics Commission and speaks on the State Government Ethics Act and Lobbying Law, as requested.

ADVICE & FORMAL ADVISORY OPINIONS. The Commission staff provides advice to any individual who is covered by the ethics act and drafts and prepares formal written advisory opinions for consideration by the Commission. Commission staff also advises individuals and entities impacted by the Lobbying Law, including all registered lobbyists and lobbyist principals.

Statutory Authority. G.S. 138A-10(a)(7); 138A-13; 120C-102.

Major Responsibilities.

- Research and respond to requests for advice on compliance with the ethics law from public servants, legislators, and legislative employees, including conflicts of interest, gifts ban, use of title, and other requirements of the ethics law.
- Research and draft formal advisory opinions for consideration by the Commission as requested by public servants and legislative employees.
- Research and draft recommended formal advisory opinions for consideration by the Commission and the Legislative Ethics Committee as requested by legislators.
- Research and respond to requests for advice and formal advisory opinions from lobbyists, lobbyist principals, legislative liaisons and others concerning compliance with the lobbying law.

COMPLAINTS & INVESTIGATIONS. The Commission and its staff investigate alleged violations of the ethics law, portions of the lobbying law, and any other laws over which the Commission has jurisdiction. These investigations include potential violations of the conflict of interest and other requirements of the ethics law. The Commission also investigates alleged violations of the gift ban for both the ethics and lobbying laws.

Statutory Authority. G.S. 138A-10(a)(5)-(6); 138A-12; 138A-45; 120C-601- -602.

Major Responsibilities.

- Receive and investigate complaints alleging unethical conduct against public servants, legislators, legislative employees, and judicial officers.
- Receive and investigate complaints alleging violations of portions of the lobbying law, including the gift ban.⁵

⁵ The Secretary of State's Office investigates alleged violations of the registration and reporting sections of the lobbying law.

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BUDGET SUMMARY.

<u>Fund</u>	<u>Division Name</u>	<u>2011-2012 Recommended Appropriation</u>	<u>2012-2013 Recommended Appropriation</u>	<u>Number of Positions</u>
1810	State Ethics Commission	\$1,369,117	\$1,369,117	14.00

POSITION SUMMARY.

BEACON Vacancy List (February 18, 2011).

NOTE: The positions below are filled; they were listed as vacant in the BEACON system. However, there is an anticipated vacancy, effective March 14, 2011, for the Education Program Assistant V position (\$33,582).

B0104: Vacancy
Report

							Cal Mth/Yr	FEB 2011	FEB 2011	FEB 2011	FEB 2011	FEB 2011
								Budget Amount	Number of Days Vacant	Position FTE	PT FTE Positions	FT FTE Positions
Job	Organizational Unit		Job Pay Type	Position		Pos County	Date Vacant	\$				
Administrative Assistant II	20000120	BRDS&COMM Ethics	Graded	60088566	Administrative Assistant II	US/NC /092 Wake	01/15/2011	46,445.00	37	1.0000		1.0000
Paralegal II	20000120	BRDS&COMM Ethics	Graded	65012030	Paralegal II	US/NC /092 Wake	09/01/2010	40,500.00	173	1.0000		1.0000
Overall Result								86,945.00	X	2.0000		2.0000

RETIREMENT ELIGIBILITY.

- Position count for employees within 3 years of retirement: 0
- Position count for employees with 30 years of service: 0

STATE ETHICS COMMISSION

BI233

BUDGET PREPARATION SYSTEM BUDGET PREPARATION WORKSHEET I (DETAIL REQUEST) FUND DETAIL

AWG

ATTACHMENT 4

4100 -
14100 Department of Administration - General
1810 State Ethics Commission

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CODE (1)	DESCRIPTION (2)	2009-2010 ACTUAL (3)	2010-2011 CERTIFIED (4)	2010-2011 AUTHORIZED (5)	2011-2012 INCR/DECR (6)	2011-2012 TOTAL (7)	2012-2013 INCR/DECR (8)	2012-2013 TOTAL (9)
REQUIREMENTS								
53 1211	SPA-REG SALARIES-APPRO	666,676	838,450	838,450	50,016	888,466	50,016	888,466
53 1411	OT PAY - APPROPRIATED	16	0	0	0	0	0	0
53 1461	EPA&SPA-LONGVTY PAY-APPR	10,020	11,762	11,762	0	11,762	0	11,762
53 1511	SOCIAL SEC CONTRIB-APPRO	49,501	64,738	64,738	3,827	68,565	3,827	68,565
53 1521	REG RETIRE CONTRIB-APPRO	59,213	91,387	91,387	4,895	96,282	4,895	96,282
53 1561	MED INS CONTRIB-APPRO	45,266	67,346	67,346	3,286	70,632	3,286	70,632
53 1575	EMPLOYEE ASSISTANCE PROG	54	0	0	0	0	0	0
53 1576	FLEXABLE SPENDING SAVING	1,558	0	0	0	0	0	0
53 1651	COMPENSATION TO BOARD ME	540	1,680	1,680	0	1,680	0	1,680
TOTAL PERSONAL SERVICES		832,844	1,075,363	1,075,363	62,024	1,137,387	62,024	1,137,387
53 2110	LEGAL SERVICES	14,700	100,000	100,000	-100,000	0	-100,000	0
53 2140	INFORMATN TECHNOLOGY SVC	947	136,000	132,000	-17,600	114,400	-17,600	114,400
53 2143	LAN SUPPORT SERVICES	3,152	200	4,200	0	4,200	0	4,200
53 2144	PC/PRINTER SUPPORT SERV	11,980	15,238	15,238	0	15,238	0	15,238
53 2170	ADMIN SERVICES	3,571	0	0	0	0	0	0
53 2199	MISC CONTRACTUAL SERVICE	4,515	0	0	0	0	0	0
53 2300	REPAIR SERVICES	0	450	450	0	450	0	450
53 2400	MAINTENANCE AGREEMENTS	1,680	1,498	1,804	0	1,804	0	1,804
53 2500	RENTALS/LEASES	493	21,758	14,363	0	14,363	0	14,363
53 2700	TRAVEL&OTHER EMPLOYEE EX	4,925	13,731	11,680	0	11,680	0	11,680
53 2800	COMMUNICATION&DATA PROC	31,378	20,435	36,575	0	36,575	0	36,575
53 2900	OTHER SERVICES	980	1,979	1,979	0	1,979	0	1,979
TOTAL PURCHASED SERVICES		78,321	311,289	318,289	-117,600	200,689	-117,600	200,689
53 3100	GENERAL ADMIN SUPPLIES	6,747	16,862	9,862	0	9,862	0	9,862
53 3200	FACILITY & HARDWARD SUPP	409	560	560	0	560	0	560
53 3700	RESEARCH/DEVELOP& ED SUP	125	9,419	9,419	0	9,419	0	9,419
53 3900	OTHER MATERIALS & SUPPLI	140	0	0	0	0	0	0
TOTAL SUPPLIES		7,421	26,841	19,841	0	19,841	0	19,841
53 4500	EQUIPMENT	3,525	5,000	5,000	-4,000	1,000	-4,000	1,000

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53 4700 INTANGIBLE ASSETS	0	1,500	1,500	-500	1,000	-500	1,000
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TOTAL PROPERTY, PLANT & EQUIPMT	3,525	6,500	6,500	-4,500	2,000	-4,500	2,000
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53 5800 OTHER ADMINISTRATIVE EXP	3,326	9,200	9,200	0	9,200	0	9,200
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TOTAL OTHER EXPENSES & ADJUSTMEN	3,326	9,200	9,200	0	9,200	0	9,200
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STATE ETHICS COMMISSION

BI233

BUDGET PREPARATION SYSTEM
BUDGET PREPARATION WORKSHEET I (DETAIL REQUEST)
FUND DETAIL

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REQUIREMENTS								
53 8153	TRSFR-GOVERNOR'S OFFICE	6,394	0	0	0	0	0	0
TOTAL INTRAGOVERNMENTAL TRANSACT		6,394	0	0	0	0	0	0
TOTAL REQUIREMENTS								
		931,831	1,429,193	1,429,193	-60,076	1,369,117	-60,076	1,369,117
ESTIMATED RECEIPTS								
43 5500	FINES, PENALTIES, FEES	6,394	0	0	0	0	0	0
43 7127	PROCUREMENT CARD REBATES	35	0	0	0	0	0	0
53 8308	COPIER REIMBURSEMENT	321	0	0	0	0	0	0
53 8352	REFUND OF PRIOR YR EXPEN	111	0	0	0	0	0	0
TOTAL RECEIPTS		6,861	0	0	0	0	0	0
NET APPROPRIATION								
		924,970	1,429,193	1,429,193	-60,076	1,369,117	-60,076	1,369,117

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5-10-15% REDUCTIONS.

Starting Point is \$1,351,404 (from 9-16-10 Worksheet I -- Fund Detail; 2011-2012 Appropriation; original starting point for offered reductions); starting July 1, 2011 (budget year 2011-2012):

	<u>5%</u>	<u>10%</u>	<u>15%</u>
Recurring	(\$ 67,570)	(\$135,140)	(\$202,710)
Non-Recurring	\$0	\$0	\$0
Positions	2	3+	4

Description: Eliminate staff positions. The only way to reach this level of cuts (5-10-15%) is to eliminate staff positions, either existing or those newly added in the last legislative session to target specific legislative and other objectives. Depending on the level of cuts required, the Commission would need to eliminate at least four (4) positions. Any such staff reductions would greatly harm the Commission's accomplishment of its core mission and statutory duties and responsibilities.

Impact of Reduction: A budget reduction of this scope would negatively impact the Commission's accomplishment of its core, critical missions, including implementation and enforcement of the State Government Ethics Act and the Lobbying Law. The Commission's programs and responsibilities are unique, thus not duplicated by other agencies. Therefore, none of the Commission's programs and responsibilities present themselves for elimination without harming both the specific and general goals and missions of the State Government Ethics Act and the Lobbying Law.

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GOVERNOR'S RECOMMENDED BUDGET REDUCTIONS

	<u>2011-2012</u> <u>Recommended</u>	<u>2012-2013</u> <u>Recommended</u>
Requirements	\$1,429,193	\$1,429,193
Receipts	0	0
Total Requirements	\$1,429,193	\$1,429,193
Adjustments	(\$60,076)	(\$60,076)
Total Appropriation	<u>\$1,369,117</u>	<u>\$1,369,117</u>

	<u>2011-2012</u> <u>Recommended</u>	<u>2012-2013</u> <u>Recommended</u>
Positions	14.0	14.0
Reductions	0	0
Total Positions	14.0	14.0